

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

William J. Rauch,)	Civil Action No.: 9:05-cv-00376
)	
Plaintiff,)	
)	
vs.)	<u>DEFENDANTS DEUTSCHE BANK</u>
)	<u>SECURITIES INC. AND RICHARD</u>
)	<u>DEBOE'S MOTION TO COMPEL</u>
Jennifer D. Rauch a/k/a Jennifer Davis;)	<u>COMPLIANCE WITH RULE 26(b)(5)</u>
Peter Brant; Richard Deboe; Deutsche)	
Bank Securities, Inc. f/k/a Deutsche Bank)	
Alex Brown, Inc.,)	
)	
Defendants.)	
)	
)	
)	

**TO: RALPH E. TUPPER, ESQUIRE AND JOHN E. PARKER, ESQUIRE,
ATTORNEYS FOR THE PLAINTIFF:**

Defendants Deutsche Bank Securities Inc. ("DBSI") and Richard DeBoe ("DeBoe"), by and through their undersigned counsel, hereby request that this Court issue an Order compelling Plaintiff William J. Rauch to comply with Federal Rule of Civil Procedure 26(b)(5), by providing a description, as required by that Rule, of the documents, communications, or things not produced in response to Defendants' April 28, 2005 Request for Production.

On April 28, 2005, Defendants DBSI and DeBoe served a Request for Production upon Plaintiff, which set forth three requests for production of documents. (See Exhibit A). Plaintiff responded to this request on June 3, 2005 by stating that any such responsive material

was subject to attorney/client privilege. (See Exhibit B). Pursuant to Rule 26(b)(5) of the Federal Rules of Civil Procedure,

When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

On June 10, 2005, Defendant DBSI sent correspondence to Plaintiff via facsimile requesting compliance with Rule 26(b)(5) by Tuesday, June 14, 2005. (See Exhibit C). As of the date of this motion, Plaintiff has not provided the information required by Rule 26(b)(5), and therefore his response to Defendants' April 28, 2005, Request for Production is deficient.

Pursuant to a May 2, 2005 Order of the Court, Defendants' response to Plaintiff's March 22, 2005 Motion for Remand is due ten (10) business days after Defendants have received all materials responsive to the limited written discovery served upon Plaintiff (via subpoena) and upon non-party Jennifer D. Rauch a/k/a Jennifer Davis (including any limited depositions that may be necessary to authenticate any received materials). Until Plaintiff complies fully with Rule 26(b)(5), and any further proceedings necessitated by that compliance are completed, Defendants consider his discovery response to be deficient and incomplete and are unable to prepare their response to Plaintiff's remand motion.

Pursuant to Local Rule 7.02, Defendant DBSI certifies that, on behalf of moving Defendants, it has complied with the obligation to confer with opposing counsel to resolve this matter.

WHEREFORE, Defendants request that the Court issue an Order compelling Plaintiff to comply with Rule 26(b)(5) of the Federal Rules of Civil Procedure and provide the information required thereby.

NELSON MULLINS RILEY & SCARBOROUGH, L.L.P.

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June 22, 2005

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant, of the law offices of Nelson Mullins Riley & Scarborough, L.L.P., attorneys for Deutsche Bank Securities Inc., do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Defendants Deutsche Bank Securities, Inc. and Richard DeBoe's Motion to Compel Compliance with Rule 26(b)(5)

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June 22, 2005